IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

MISC. CIVIL APPLICATIN NO.90 OF 2004

Sou. Savita w/o Prashant Nagarkar ... Petitioner

V/s

Shri Prashant Suresh Nagarkar ... Respondent

Shri V.G. Mujumdar for the petitioner.

Shri R.K. Saroj holding for S.V. Pitre for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 7TH DEC., 2004.

P.C.:

1. Heard learned counsel for both parties. Perused the record.

2. Rule. Rule made returnable forthwith by consent.

3. This is the petition filed by wife who is party to Petition No. PA 766 of 2003 pending before the Family Court at Pune and has sought transfer of the proceeding to the Family Court at Aurangabad on various grounds.

4. The petitioner states that she is B.E. (Electronic)

and Communication graduate and was married to the respondent in January, 1999. The petitioner begotten a child on 27.10.1999 from the wedlock between the parties and the child is at present with the petitioner. There was marital dispute between the parties and, therefore, the petitioner moved to Aurangabad and is staying with her parents with her child, whereas the respondent is stationed at Pune who has filed the marriage petition for divorce (Petition No. PA 766 of 2003) pending before the Family Court, Pune, which is sought to be transferred to Aurangabad. According to the petitioner, she has recently joined as a Lecturer on contract basis in Government Polytechnic College at Osmanabad and she was allotted election duty. It is the case of the petitioner that at present she is working at Usmanabad and visits Aurangabad at her parental home where she stays during week end. Her son is also staying with her. Her son is four years' old and it would be very difficult for her to travel to Pune with the child to attend the proceeding filed by the respondent at Pune Family Court.

At this stage, it may be noted that it is urged on behalf of the respondent, who is also present before the Court today, that he is ready to finally settle the

ditpute amicably between the parties. Be that as it may, the fact remains that the balance of convenience demands that the proceeding should continue at Aurangabad instead of Pune because comparatively it would be more convenient for the respondent to travel to Aurangabad to attend the proceeding, instead of the petitioner travelling with her child to go to Pune to attend the dates of the pending proceeding. The learned counsel for the respondent also submitted that since he is ready and willing to settle the dispute, necessary directions be given to the lower Court in this regard.

5. Hence, the application is made absolute in terms of prayer clause (b).

The Petition No. PA 766 of 2003 filed by the respondent and pending before the Family Court at Pune, stands transferred to the Family Court at Aurangabad.

Both parties shall proceed to Aurangabad and appear before the Family Court at Aurangabad on 10th January, 2005.

The Principal Judge of the Family Court at Aurangabad is directed to hold a meeting of the learned counsel for

both parties as well as the parties in person so as to explore the possibility of settlement of the dispute as expressed by both parties.

The Principal Judge, Family Court at Pune shall take necessary steps to transmit the R & P of Petition No. PA 766 of 2003 to the Family Court at Aurangabad, in pursuance of this order.

It is clarified that, if ultimately the settlement does not materialize, the Family Court at Aurangabad is directed to proceed with hearing of the matter so as to dispose it of on merits within six months from the date of receipt of the writ of this order.

With these directions, the application stands disposed of with no order as to costs.

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